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of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-fourth session

SUMMARY RECORD OF THE 1331st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 18 March 1999, at 3 p.m.

Chairman: Mr. ABOUL-NASR

later: Mr. DIACONU
(Vice-Chairman)

later: Mr. ABOUL-NASR
(Chairman)

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Draft decision on Australia

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GE.99-40996 (E)

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The meeting was called to order at 3.10 p.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (agenda item 3) (continued)

Draft decision on Australia (CERD/C/54/Misc.40/Rev.1)

1. Ms. McDOUGALL (Country Rapporteur) said she had reflected in the revised text most of the comments that had been made by members of the Committee.

Paragraph 1

2. Mr. SHERIFIS proposed the deletion of the word "distinguished" in the last sentence.

3. Mr. RECHETOV proposed that the word "presence" in the same sentence be replaced by "dialogue".

4. Both proposals were adopted.

5. Paragraph 1, as amended, was adopted.

Paragraph 2

6. Mr. DIACONU said that the reference to submissions from non-governmental organizations (NGOs) in the second sentence would set an undesirable precedent.

7. The CHAIRMAN pointed out that article 9 of the Convention referred only to material received from the States parties.

8. Ms. McDOUGALL (Country Rapporteur) said that, while she had no objection to the deletion of the second sentence, the bodies listed in the first sentence enjoyed official status.

9. Mr. van BOVEN said that, in its comments on Australia's last periodic report, the Committee had acknowledged the receipt of submissions from the Aboriginal and Torres and Strait Islander Social Justice Commissioner. Given the special status of the Aboriginal community and the fact that it had provided the Committee with extremely useful and important material, he felt that some acknowledgement of its participation was called for. He agreed, however, that the second sentence should be deleted.

10. Paragraph 2, as amended, was adopted.

Paragraph 3

11. Mr. DIACONU said that paragraph 3 expressed a value judgement on the entire history of Australian government policy towards the indigenous population and failed to acknowledge the progress achieved through the 1993 Native Title Act or the Mabo decision.

12. Mr. van BOVEN said that the Aboriginal peoples of Australia had been marginalized over the centuries. It was a very important paragraph that should be retained.

13. Mr. DIACONU said he would not object to the retention of the paragraph.

14. Paragraph 3 was adopted.

Paragraph 4

15. Mr. RECHETOV proposed that the phrase "has been recognized in international law" be amended to read "has been generally recognized". It was inappropriate to refer to international law without any mention of a specific treaty.

16. The proposal was adopted.

17. Paragraph 4, as amended, was adopted.

Paragraph 5

18. Mr. RECHETOV proposed that the words "regarding Australia" in the first sentence be deleted.

19. It was so decided.

20. Paragraph 5, as amended, was adopted.

Paragraph 6

21. Mr. RECHETOV proposed that the words "must now express" in the first sentence be amended to read "now expresses".

22. It was so decided.

23. Paragraph 6, as amended, was adopted.

Paragraphs 7 to 10

24. Paragraphs 7 to 10 were adopted.

Paragraph 11

25. Ms. McDOUGALL (Country Rapporteur) said that the wording within the first set of square brackets was her own while that within the second set of square brackets was proposed by Mr. Diaconu.

26. Mr. DIACONU said it was not for the Committee to propose amendments to a specific Act. It was more appropriate to encourage the search for solutions that were acceptable and in conformity with the Convention.

27. Mr. SHERIFIS said he supported Mr. Diaconu's proposal.

28. Mr. van BOVEN suggested that Mr. Diaconu's proposal be reworded to read: 'to finding solutions that are acceptable to the indigenous peoples and".

29. Mr. GARVALOV said that Mr. Diaconu's version focused on the indigenous people and excluded the State party. He thus preferred the Country Rapporteur's formula, which mentioned a consensus.

30. Ms. McDOUGALL (Country Rapporteur), Mr. de GOUTTES and Mr. YUTZIS said that they were able to support Mr. van Boven's suggested wording. The State party was not excluded, because the recommendation was addressed to it.

31. The CHAIRMAN said he took it that the Committee wished to adopt Mr. van Boven's wording.

32. It was so decided.

33. Paragraph 11, as amended, was adopted.

Paragraph 12

34. The CHAIRMAN, supported by Mr. SHERIFIS, proposed that the words "at its fifty-fifth session" be deleted because there might be no developments in the situation before the Committee's next session.

35. Ms. McDOUGALL (Country Rapporteur) said that the urgency of the matter required that it should be reviewed as soon as possible.

36. Mr. RECHETOV said he was in favour of retaining the reference to the fifty-fifth session. He proposed replacing "these matters" by "this matter" and "over these provisions" by "thereon".

37. The CHAIRMAN said he took it that the Committee wished to adopt the paragraph as amended by Mr. Rechetov.

38. It was so decided.

39. The draft decision on Australia as a whole, as amended, was adopted.

40. The CHAIRMAN said he noted that there was no reference to the delegation's statements and responses in the concluding observations. He suggested, therefore, that the State party should be given an opportunity to make comments in accordance with article 9 of the Convention. Any such comments would then be published in the Committee's report to the General Assembly.

41. It was so agreed.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Draft concluding observations concerning the twelfth to fifteenth periodic reports of Costa Rica (CERD/C/54/Misc.33/Rev.2)

42. Mr. YUTZIS (Country Rapporteur) said that nearly all the suggestions, amendments and proposals put forward by the members of the Committee had been incorporated into the revised text of the draft conclusions.

Paragraphs 1 and 2

43. Paragraphs 1 and 2 were adopted.

Paragraph 3

44. Mr. RECHETOV suggested that the words "shall take precedence over" should be replaced by the words "shall prevail over", since "precedence" was not a legal term.

45. The CHAIRMAN said he would prefer to retain the ordinary English word.

46. Mr. RECHETOV withdrew his suggestion.

47. Paragraph 3 was adopted.

Paragraphs 4, 5 and 6

48. Paragraphs 4, 5 and 6 were adopted.

Paragraph 7

49. The CHAIRMAN said he thought that the detailed explanations of Costa Rica's economic situation were unnecessary.

50. Mr. YUTZIS (Country Rapporteur) said that the decline in the effectiveness of financial penalties due to the devaluation of the Costa Rican currency had formed part of the discussions with the delegation. If, however, the Committee wished to delete the reference, he would not oppose it.

51. Mr. NOBEL suggested that the words "have become insignificant due to monetary fluctuations and" be deleted. The sentence would then read: "The Committee is concerned that the financial penalties thus provided for do not constitute a sufficiently effective measure".

52. It was so decided.

53. Mr. GARVALOV pointed out that the Convention did not "request" effective measures, it "required" them. The last sentence of the paragraph should thus be amended accordingly.

54. It was so decided.

55. Paragraph 7, as amended, was adopted.

Paragraphs 8 and 9

56. Paragraphs 8 and 9 were adopted.

Paragraph 10

57. The CHAIRMAN said that the word "apprehensive" had not previously been used by the Committee. It should, perhaps, be replaced by the word "concerned".

58. It was so decided.

59. Mr. NOBEL said that there was a word missing from the first line which should read "land rights of indigenous populations".

60. Mr. YUTZIS (Country Rapporteur) said that the expression normally used was "indigenous peoples".

61. Mr. de GOUTTES said he agreed with the Country Rapporteur that the word "peoples" was used in English, corresponding to the word populations in the French version.

62. Paragraph 10, as corrected, was adopted.

Paragraph 11

63. Mr. de GOUTTES said that the words "de facto" in paragraphs 11, 12 and 19 should be replaced by with the word "effective".

64. It was so agreed.

65. Mr. YUTZIS (Country Rapporteur) consequently proposed that the word "effective" already appearing in paragraph 11 be deleted so that the text would read "effective access to protection".

66. It was so decided.

67. Paragraph 11, as amended, was adopted.

Paragraph 12

68. Mr. YUTZIS (Country Rapporteur) reminded the Committee that it had decided to replace the words "de facto" by "effective".

69. Paragraph 12, as amended, was adopted.

Paragraph 13

70. Paragraph 13 was adopted.

Paragraph 14

71. Mr.YUTZIS (Country Rapporteur) proposed that the reference to article 3 be deleted.

72. It was so decided.

73. Paragraph 14, as amended, was adopted.

Paragraph 15

74. Paragraph 15 was adopted.

Paragraph 16

75. The CHAIRMAN asked why the indigenous peoples and the black community were not mentioned; alternatively, the last three words of the paragraph should be replaced by "the entire population".

76. Mr. de GOUTTES, supported by Mr. SHERIFIS, said that the paragraph contained two separate ideas and should ideally be divided in two, one paragraph on the new immigration legislation and the other on those categories of the population which experienced difficulties in enjoying their rights.

77. Mr. DIACONU suggested that the formulation in paragraph 12 should be followed, since paragraph 16 reflected the concerns expressed in that paragraph.

78. Mr. YUTZIS (Country Rapporteur) said that, if the Committee so desired, he would produce a text based on the suggestions made by Mr. de Gouttes and Mr. Diaconu.

79. It was so decided.

Paragraph 17

80. The CHAIRMAN said that, since the indigenous peoples actually owned the land, the word "distribution" should be replaced by "restoration" or "return". He asked what was meant by the words "a different concept of land use and ownership".

81. Mr. DIACONU explained that, to a lawyer, land was an item of property to be bought and sold on the market whereas, to an indigenous person, it was part and parcel of his nature and his life.

82. Paragraph 17 was adopted.

Paragraph 18

83. Paragraph 18 was adopted.

Paragraph 19

84. Mr. GARVALOV said that the first "further" in the first line of the paragraph should be deleted.

85. It was so decided.

86. Mr. de GOUTTES reminded the Committee that the words "de facto" had been replaced by the word "effective".

87. Paragraph 19, as amended, was adopted.

Paragraphs 20 and 21

88. Paragraphs 20 and 21 were adopted.

Paragraph 22

89. Mr. SHERIFIS suggested that the end of the sentence be modified to read "it address all the suggestions and recommendations adopted by the Committee in the present observations".

90. It was so decided.

91. Paragraph 22, as amended, was adopted.

92. The draft concluding observations concerning the twelfth to fifteenth periodic reports of Costa Rica as a whole, as amended, were adopted.

Draft concluding observations concerning the thirteenth and fourteenth periodic reports of Kuwait (CERD/C/54/Misc.43/Rev.2)

93. Mr. YUTZIS (Country Rapporteur) said the revised draft included all the suggestions made by Committee members, except those by Mr. Diaconu which he had received too late for inclusion.

Paragraphs 1, 2 and 3

94. Paragraphs 1, 2 and 3 were adopted.

Paragraph 4

95. Mr. GARVALOV proposed that, in the first sentence, the words "a certain number of" should be inserted before the words "non-Kuwaitis".

96. It was so decided.

97. Paragraph 4, as amended, was adopted.

Paragraph 5

98. Mr. DIACONU pointed out that, since all naturalized persons should automatically have voting rights, the paragraph was an impolitic one and should be deleted.

99. It was so decided.

Paragraph 6

100. Mr. DIACONU, supported by Mr. YUTZIS (Country Rapporteur), suggested that the expression "illegal residents" be replaced by the words "undocumented persons".

101. It was so decided.

102. Paragraph 6, as amended, was adopted.

Paragraph 7

103. Mr. van BOVEN said that the second article of the Penal Code referred to in the paragraph related not to article 4 of the Convention but to article 2. He proposed, therefore, that the phrase "article 4" be replaced by the words "articles 2 and 4".

104. It was so decided.

105. The CHAIRMAN having commented that it could hardly be an offence "not to recognize racial equality", Mr. DIACONU proposed that the word "recognize" be replaced by the word "respect".

106. It was so decided.

107. Paragraph 7, as amended, was adopted.

Paragraph 8

108. Mr. van BOVEN asked whether the Committee was certain that the State party had ratified 114 international conventions. The number seemed too large to be meaningful.

109. The CHAIRMAN proposed that the phrase "the ratification by the State party of ..." be replaced by the words "the statement by the State party that it had ratified ...".

110. It was so decided.

111. Mr. van BOVEN then suggested that the number "114" be replaced by the words "a large number of".

112. It was so decided.

113. Paragraph 8, as amended, was adopted.

Paragraph 9

114. Paragraph 9 was adopted.

Paragraph 10

115. Mr. DIACONU proposed that the words "in the State party" be deleted.

116. It was so decided.

117. Paragraph 10, as amended, was adopted.

Paragraph 11

118. Mr. DIACONU said that the paragraph did not relate to the Convention and proposed that it be deleted.

119. It was so decided.

Paragraph 12

120. Mr. RECHETOV, referring to the second half of the paragraph, said that the Committee did not know whether there were any other measures that should be taken into account.

121. Mr. DIACONU proposed that the second part of the paragraph be amended to read "... it notes with concern that the Kuwaiti legislation is not in full compliance with the provisions of this article".

122. It was so decided.

123. Mr. van BOVEN pointed out that the word "amendments" should be "amendment" in the singular.

124. Paragraph 12, as amended and corrected, was adopted.

Paragraph 13

125. Mr. SHERIFIS said he wondered whether the Committee should limit itself to mentioning Palestinians, Bangladeshis and Somalis.

126. Mr. YUTZIS (Country Rapporteur) said that those were the groups that experienced the greatest difficulties. He suggested rewording the last part of the paragraph to read "vulnerable groups of foreigners, in particular the treatment of foreign domestic servants".

127. Paragraph 13, as amended, was adopted.

Paragraph 14

128. In response to a query by Ms. ZOU Deci, Mr. NOBEL said that the word "bidoon" did not require an initial capital letter, since it did not refer to a nationality but was simply an Arab adjective.

129. Paragraph 14 was adopted, subject to minor editorial changes.

Paragraph 15

130. Paragraph 15 was deleted.

Paragraph 16

131. Mr. GARVALOV said that the word "apparent" might give the impression that the Committee did not know whether or not there was a lack of training for law enforcement officials.

132. Mr. YUTZIS (Country Rapporteur) said that the words "the apparent lack of appropriate training" might be replaced by the words "the insufficient training".

133. It was so decided.

134. Paragraph 16, as amended, was adopted.

135. Mr. Diaconu, Vice-Chairman, took the Chair.

136. The CHAIRMAN proposed that the section E heading be moved to a position above paragraph 17.

137. It was so decided.

Paragraph 17

138. Paragraph 17 was adopted.

Paragraph 18

139. Mr. van BOVEN proposed that the phrase "vulnerable groups of foreigners" be replaced by "vulnerable groups of foreigners, notably domestic workers, ...".

140. The proposal was adopted.

141. Paragraph 18, as amended, was adopted.

Paragraph 19

142. Mr. SHAHI said that, while he agreed in principle that the bidoons should be naturalized, there were apparently about 100,000 of them and he wondered whether it was not too much to expect the State party to grant such a large group their rights en masse. He suggested that the words "grant them naturalization" be replaced by "expedite the process of naturalization".

143. Mr. GARVALOV said that, if the bidoons were not naturalized, racial discrimination against them would continue.

144. Mr. YUTZIS (Country Rapporteur) said that the situation of the bidoons represented one of Kuwait's major problems and the Committee ought to take

some decision thereon. It was not a question of recommending how long the State party should take about it, but of recommending that it find a solution.

145. After a discussion in which Mr. SHAHI, Mr. YUTZIS and Mr. ABOUL-NASR took part, the CHAIRMAN proposed that the final part of the paragraph should be amended to read "... the problems faced by the bidoons and ensure the full enjoyment of their rights without any discrimination."

146. It was so decided.

147. Paragraph 19, as amended, was adopted.

Paragraphs 20 and 21

148. Paragraphs 20 and 21 were adopted.

149. Mr. ABOUL-NASR suggested that paragraphs 20 and 21 be placed between paragraphs 23 and 24.

150. It was so decided.

Paragraphs 22 and 23

151. Paragraphs 22 and 23 were adopted.

Paragraph 24

152. Mr. SHERIFIS proposed that the words "address all the points raised in the concluding observations and ..." be replaced by "address the suggestions and recommendations adopted by the Committee".

153. Mr. van BOVEN said that that was the formula the Committee had decided to use when requesting an updated report. If the Committee was requesting a full report, then the existing wording was appropriate.

154. Mr. YUTZIS (Country Rapporteur) said that the report should be an updated report. He suggested that the second sentence of the paragraph might be reworded to read "the Committee recommends that the next periodic report of the State party, which should be an updated report, due on 4 January 1993, address the suggestions and recommendations adopted by the Committee during the consideration of this report".

155. It was so agreed.

156. The CHAIRMAN proposed that the two sentences of paragraph 24 should form two separate paragraphs.

157. It was so decided.

158. Paragraph 24, as amended, was adopted.

159. The draft concluding observations concerning the thirteenth and fourteenth periodic reports of Kuwait as a whole, as amended, were adopted.

160. Mr. Aboul-Nasr resumed the Chair.

Draft concluding observations on the Congo (CERD/C/54/Misc.22)

Paragraph 1

161. Paragraph 1 was adopted.

Paragraph 2

162. The CHAIRMAN proposed a dilution of the statement in that paragraph to some extent by saying "the State party had not been able to respond to its invitation" rather than "the State party had not responded to its invitation".

163. It was so decided.

164. Paragraph 2, as amended, was adopted.

Paragraph 3

165. Mr. DIACONU said that the word "concluded" was not to the point and should be replaced by "considers".

166. It was so agreed.

167. Paragraph 3, as amended, was adopted.

Paragraphs 4 and 5

168. Paragraphs 4 and 5 were adopted with minor drafting changes.

Paragraph 6

169. The CHAIRMAN, referring to the last sentence of the paragraph, said it was not clear from whom the Committee was requesting information, since no report had been received and none was expected in the near future.

170. Mr. DIACONU said that information on cooperation with other United Nations bodies was no replacement for dialogue. As paragraph 7 referred to a dialogue with the State party, he proposed that the last sentence of paragraph 6 be deleted.

171. It was so decided.

172. Paragraph 6, as amended, was adopted.

173. The draft concluding observations on the Congo as a whole, as amended, were adopted.

Draft concluding observations concerning the twelfth to fifteenth periodic reports of the Syrian Arab Republic (CERD/C/54/Misc.36/Rev.2)

174. Mr. SHAHI (Country Rapporteur) said that he had thoroughly revised the original text of the draft concluding observations to take fully into account the statement made by the representative of the Syrian Arab Republic.

Paragraphs 1 and 2

175. Paragraphs 1 and 2 were adopted.

Paragraph 3

176. Mr. DIACONU proposed that the last sentence of the paragraph be deleted. It was true that a state of emergency continued to be in force, but the representative of Syria had repeatedly stated that that had not resulted in a restricted implementation of the provisions of article 5 or in racial discrimination. The state of emergency was related to the state of war, and not to substantive issues concerning human rights or the implementation of the Convention.

177. Mr. NOBEL said that the state of emergency was also used as a justification for discrimination against Kurds and other minorities. He was therefore in favour of retaining the sentence.

178. Mr. SHERIFIS said that, if the representative of Syria had in fact said that the state of emergency had not resulted in a restricted implementation of article 5 and none of the members of the Committee had challenged his statement, then he agreed that the last sentence should be deleted.

179. Mr. SHAHI (Country Rapporteur) said that, while he had no objection to the deletion of the last sentence, he wished to explain the rationale behind it. In a state of emergency, it was inevitable that certain rights were restricted, such as freedom of movement, freedom of the press or freedom of assembly. The representative of Syria had stated that that had not affected the everyday life of citizens, but it was still a fact that certain restrictions existed and must be taken into account.

180. Mr. NOBEL said that he had himself challenged the Syrian representative's assertion and, with the Chairman's permission, he would prove the fact by quoting from the relevant summary record.

181. The CHAIRMAN said that the Committee had no time for quotes from the summary record.

182. Mr. SHAHI (Country Rapporteur) said that the sentence in question was in justification of the action taken by Syria in the state of emergency.

183. The CHAIRMAN said he took it that a majority of the members of the Committee wished to adopt the paragraph as it stood.

184. It was so decided.

185. Paragraph 3 was adopted.

Paragraphs 4 and 5

186. Paragraphs 4 and 5 were adopted.

Paragraphs 6 and 7

187. Mr. DIACONU said he could not see the point of paragraphs 6 and 7 and proposed that they be deleted.

188. Mr. SHAHI (Country Rapporteur) said that, while he would not stand in the way of a decision to delete paragraphs 6 and 7, he wished to point out that very few of the States parties considered by the Committee complied in full with the provisions of article 4 of the Convention. In its concluding observations on the eleventh periodic report of Syria, the Committee had noted that the State party had scrupulously enacted legislation to implement article 4 (a) and (b).

189. The CHAIRMAN proposed that paragraph 6 be deleted, together with the word "also" in the first line of paragraph 7.

190. It was so decided.

191. Paragraph 7, as amended, was adopted.

Paragraphs 8 and 9

192. Paragraphs 8 and 9 were adopted.

Paragraph 10

193. Ms. McDOUGALL proposed that the phrase "and there are no apparent patterns of systematic racial discrimination" be deleted.

194. It was so decided.

195. Paragraph 10, as amended, was adopted.

Paragraph 11

196. The CHAIRMAN asked whether the Committee had already expressed concern about Syrian-born Kurds; if not, the word "remains" in the first line was inappropriate. Syria had problems with other minorities, but he was unaware that it had any with Kurds.

197. Mr. SHAHI (Country Rapporteur) said that the representative of Syria had stated that Kurds were treated in the same way as Syrian citizens. Many of those who had been deprived of citizenship in the 1960s had since been granted the same rights as Syrian citizens.

198. Mr. NOBEL said that the problem as described in paragraph 11 had been raised by many NGOS and had been quoted during the discussion.

199. The CHAIRMAN said that he knew from his own experience how some NGOS attacked and hounded all Arab and Muslim countries. Whenever anything was said about Iraq, Libya, Sudan, Iran or Afghanistan, or whenever a Muslim country was mentioned, some 20 NGOs took up the chase. He was unable, therefore, to accept Mr. Nobel's reliance on NGO reports.

200. Mr. SHERIFIS proposed that the word "great" at the end of the second line of the paragraph be deleted.

201. It was so decided.

202. Paragraph 11, as amended, was adopted.

The meeting rose at 6.05 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-fourth session

SUMMARY RECORD OF THE 1332nd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 19 March 1999, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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CLOSURE OF THE SESSION

The meeting was called to order at 10.05 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Letters inviting members of the Committee to Australia

1. The CHAIRMAN announced that the Office of the High Commissioner for Human Rights had received letters from the Parliament, two members of the Senate and the commission dealing with aboriginal affairs in Australia, inviting members of the Committee to visit Australia to assess the implementation of the Convention in situ. He suggested that Ms. McDougall, Mr. Sherifis and Mr. Yutzis be given the task of drafting a positive reply on behalf of the Committee, in cooperation with the Office of the High Commissioner.

2. Mr. DIACONU pointed out that the letters of invitation in question came not from the State party but from members of parliament belonging to the opposition to the Australian Government and from a non-governmental organization. The Committee should obtain the agreement of the State party concerned before accepting the invitation.

3. The CHAIRMAN, noting Mr. Diaconu's comments, recommended that the three designated members of the Committee as well as the Office of the High Commissioner obtain the agreement of the Australian Government before accepting the invitation to send members of the Committee to Australia.

4. It was so decided.

Organization and division of the work of the Committee at its fifty-fifth session (CERD/C/54/Misc.23/Rev.2 - English only)

5. Mr. SHERIFIS pointed out that Estonia had now submitted a report and that it should no longer appear in the list of countries which were to be considered in the absence of a report (review procedure). Moreover, Mr. Garvalov had agreed to serve as rapporteur for Jamaica, a task which he would carry out with Mrs. Zou's help. Therefore, it was Mr. Garvalov's name that should appear in the list.

6. Mr. van BOVEN noted that, in the list that had been distributed, the names of rapporteurs for countries whose situation was to be considered pursuant to prevention or urgent action procedures were not indicated. He would like to know if they had already been designated.

7. The CHAIRMAN said that the rapporteurs who had taken responsibility, at the current session, for States parties whose situation had been considered pursuant to prevention or urgent action procedures could be re-assigned those responsibilities automatically. However, it was not yet known which States parties would have their situation considered pursuant to that procedure at the next session. It was to be hoped that, in some cases, there would be positive developments and that it would no longer be necessary to resort to that procedure. With regard to Kosovo, for instance, it was impossible to prejudge the outcome of the negotiations which were currently being held in Paris.

8. Mr. RECHETOV said that it would nonetheless be preferable to decide from one session to the next which country situations would be considered pursuant to the prevention or urgent action procedures. With that in mind, he asked the Chairman if he could inform the members of the dates of the Committee's next session.

9. The CHAIRMAN replied that the next session was expected to be held during the four weeks from 2 August. However, those dates were not definite and would be decided by the Office of the High Commissioner in consultation with the Secretariat of the United Nations without the Committee having a say in the matter. They would be communicated to the members in due course, along with the agenda for the session.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Draft concluding observations of the Committee concerning the twelfth to fifteenth periodic reports of the Syrian Arab Republic (continued) (CERD/C/54/Misc.36/Rev.2 - English only)

10. The CHAIRMAN invited the members of the Committee to resume consideration of the draft concluding observations concerning the Syrian Arab Republic (CERD/C/54/Misc.36/Rev.2).

Paragraphs 12-14

11. Paragraphs 12-14 were adopted.

Paragraph 15

12. The CHAIRMAN, speaking as a member of the Committee, said that he was not opposed to adopting the paragraph, provided that the reservations he had expressed about the recommendation concerning the situation of Kurds born in Syria were duly noted.

13. Mr. DIACONU proposed inserting the phrase "the rights of persons belonging to ethnic and national groups" at the end of the first line.

14. Mr. RECHETOV proposed deleting the last sentence.

15. Paragraph 15, as amended, was adopted.

Paragraph 16

16. Mr. RECHETOV suggested replacing the word "abuses" in the penultimate line with the word "violations".

17. Paragraph 16, as amended, was adopted.

Paragraph 17

18. Paragraph 17 was adopted.

Paragraph 18

19. Mr. DIACONU said he had it on good authority that the Syrian Arab Republic did not need the advisory services and technical assistance programme of the Office of the High Commissioner for Human Rights in order to draw up its periodic reports. The recommendation to that effect in the second sentence therefore served no purpose.

20. Paragraph 18, as amended, was adopted.

Paragraph 19

21. Paragraph 19 was adopted.

22. The draft concluding observations concerning the twelfth to fifteenth periodic reports of the Syrian Arab Republic as a whole, as orally amended, were adopted.

Draft concluding observations of the Committee concerning the eleventh to fifteenth periodic reports of Mongolia (CERD/C/54/Misc.44/Rev.2 - English only)

Paragraphs 1-7

23. Paragraphs 1-7 were adopted.

Paragraph 8

24. Mr. VALENCIA RODRIGUEZ proposed deleting the words "in particular the translation of the Convention into the Mongolian language".

25. Paragraph 8, as amended, was adopted.

Paragraphs 9-11

26. Paragraphs 9-11 were adopted.

Paragraph 12

27. Mr. RECHETOV proposed replacing the second part of the paragraph with the words "it regrets the lack of information on the socio-economic situation of the different minority groups living in the State party".

28. Paragraph 12, as amended, was adopted.

Paragraphs 13-17

29. Paragraphs 13-17 were adopted.

Paragraph 18

30. Mr. SHERIFIS suggested replacing the words "include in its Criminal Code" in the first sentence with the words "fully comply with".

31. Paragraph 18, as amended, was adopted.

Paragraphs 19-21

32. Paragraphs 19-21 were adopted.

Paragraph 22

33. Mr. van BOVEN proposed replacing the words "all the questions raised by the members of the Committee" with the words "all the suggestions and recommendations contained in the present concluding observations".

34. Paragraph 22, as amended, was adopted.

Paragraph 23

35. Paragraph 23 was adopted.

36. The draft concluding observations of the Committee concerning the eleventh to fifteenth periodic reports of Mongolia as a whole, as orally amended, were adopted.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (agenda item 3) (continued)

Draft decision of the Committee concerning the situation in the Sudan (CERD/C/54/Misc.45/Rev.2 - English only)

Paragraph 1

37. Paragraph 1 was adopted.

Paragraph 2

38. Mr. de GOUTTES proposed deleting the word "unique".

39. Paragraph 2, as amended, was adopted.

Paragraph 3

40. Ms. McDOUGALL (Country Rapporteur) suggested replacing the second part of the paragraph with the words "this Committee expresses concern over the ethnic dimensions of the conflict".

41. Paragraph 3, as amended, was adopted.

Paragraph 4

42. Ms. McDOUGALL, in the light of comments made by several members of the Committee, proposed replacing the first sentence with the following text: "The Committee is gravely concerned by the numerous reports that all parties to the armed conflict have engaged in attacks on civilian populations of other ethnic origins, including summary executions".

43. Mr. DIACONU suggested deleting the word "credible" in the second sentence.

44. Paragraph 4, as amended, was adopted.

Paragraphs 5 and 6

45. Paragraphs 5 and 6 were adopted.

Paragraph 7

46. Mr. DIACONU considered that the issue of slavery, which was the subject of the paragraph, did not fall within the Committee's competence. He proposed deleting the adjective "Muslim" in front of "armed militia" and specifying that the thousands of Sudanese reduced to slavery were of different ethnic origins.

47. Mr. RECHETOV asked Mr. Diaconu to think carefully about the issue that was raised. It was important not to amend details linked to religion because they accurately reflected the situation on the ground.

48. The CHAIRMAN pointed out that the majority of the population in southern Sudan was neither Muslim nor Christian, even though there were more Muslims than Christians.

49. Mr. DIACONU explained that he wanted to delete the adjective "Muslim" because he wanted, at the same time, to underline the ethnic diversity of the victims. It was not only armed Muslim militias that had abducted Christian women and children.

50. Ms. McDOUGALL supported the proposal to delete the reference to Christians and Muslims if the reference to Sudanese of different ethnic origins were kept.

51. It was so decided.

52. Paragraph 7, as amended, was adopted.

Paragraph 8

53. Paragraph 8 was adopted.

Paragraph 9

54. Since the paragraph was long, the CHAIRMAN suggested that it be adopted section by section.

55. It was so decided.

Introductory part

56. The CHAIRMAN suggested deleting the word "minimum" in the phrase "the following minimum steps".

57. It was so decided.

58. The introductory part of paragraph 9, as amended, was adopted.

First indented paragraph

59. Mr. DIACONU proposed inverting the order of the sentence so that the last item in the list, the right to security of person and protection by the State, became the first item. Moreover, he suggested that it would be more appropriate to refer to people's right "to enjoy their own culture" rather than "to engage in a chosen culture".

60. It was so decided.

61. The first indented paragraph of paragraph 9, as amended, was adopted.

Second, third and fourth indented paragraphs

62. The second, third and fourth indented paragraphs were adopted.

Fifth indented paragraph

63. The fifth indented paragraph was deleted.

Sixth indented paragraph

64. The CHAIRMAN suggested deleting the word "immediately".

65. Ms. McDOUGALL said that it was more appropriate to talk of ethnic, cultural and religious diversity than of ethnic, cultural and religious tolerance.

66. It was so decided.

67. The sixth indented paragraph, as amended, was adopted.

68. Paragraph 9 as a whole, as orally amended, was adopted.

Paragraph 10

69. The CHAIRMAN considered that the Committee should avoid referring to the right to secession, since it had always declared itself opposed to the fragmentation of States.

70. Mr. YUTZIS pointed out that, in its General Recommendation XXI, the Committee had emphasized that international law did not recognize a general right of peoples unilaterally to declare secession from a State. He would therefore like the word "secession" to be deleted from the paragraph.

71. Mr. van BOVEN said that the Sudanese delegation itself had used that term and that it was not up to the Committee to oppose it. Moreover, in its General Recommendation XXI, the Committee had stated that it was not in favour of secession unless it was agreed upon by all parties concerned.

72. The CHAIRMAN said the Sudanese delegation had not stated that all parties were in favour of secession or that the population as a whole was in favour of it. Negotiations were in progress on that issue. When, and only when, agreement had been reached on that point would the Committee be able to take a position on it.

73. Mr. de GOUTTES recommended prudence. The Committee could not welcome something to which it had declared itself opposed in its recommendation, namely, the risk of secession. The Committee should remain vague on the issue and simply welcome recognition of the right to self-determination, without specifying whether it would take the form of autonomy or secession.

74. It was so decided.

75. Paragraph 10, as amended, was adopted.

76. The draft decision of the Committee concerning the situation in the Sudan as a whole, as orally amended, was adopted.

Draft decision of the Committee concerning the situation in Rwanda
(CERD/C/54/Misc.41/Rev.1 - English only)

Paragraph 1

77. Paragraph 1 was adopted.

Paragraph 2

78. The CHAIRMAN suggested that the point to be stressed was the flow of arms into and within the Central Africa subregion, not the fact that it was a free flow. Moreover, it would be preferable to simplify the last sentence of the paragraph so that the Committee would merely repeat its call on all States to enforce arms embargoes. It was not necessary to specify that the embargoes were applicable.

79. It was so decided.

80. Paragraph 2, as amended, was adopted.

Paragraphs 3-6

81. Paragraphs 3-6 were adopted.

Paragraph 7

82. The CHAIRMAN suggested that the paragraph should not state that the Committee associated itself with the Special Representative of the Commission on Human Rights, but simply that it noted with interest that the Special Representative supported launching a public debate on the role of the National Human Rights Commission.

83. It was so decided.

84. Paragraph 7, as amended, was adopted.

Paragraph 8

85. Mr. van BOVEN recommended that the Committee decide to consider the next periodic report of Rwanda at its fifty-sixth session. The Committee had, in fact, just received the original French version of the report that Rwanda had been due to submit in May 1998.

86. It was so decided.

87. Paragraph 8, as amended, was adopted.

88. The draft decision of the Committee concerning the situation in Rwanda as a whole, as orally amended, was adopted.

Draft decision of the Committee concerning the situation in the Democratic Republic of the Congo (CERD/C/Misc.29/Rev.2 - English only)

Paragraphs 1-4

89. Paragraphs 1-4 were adopted.

Paragraph 5

90. The CHAIRMAN noted that in the last sentence of the paragraph the Committee would "call[s] the attention of the Security Council ...". Article 9, paragraph 2, of the Convention provided that "the Committee shall report annually, through the Secretary-General, to the General Assembly of the United Nations on its activities ...", but nowhere was it stated that the Committee had the authority directly to draw the attention of the Security Council.

91. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) pointed out that, in the first sentence of paragraph 5, it was clearly stated that the Committee would draw the attention of the Security Council through the Secretary-General. That wording had not been included the second time so as to avoid needless

repetition. However, in the interest of precision, the words "through the Secretary-General of the United Nations" could be added to the second sentence after the words "Security Council".

92. Paragraph 5, as amended, was adopted.

Paragraph 6

93. Paragraph 6 was adopted.

94. The draft decision of the Committee concerning the situation in the Democratic Republic of the Congo as a whole, as orally amended, was adopted.

CLOSURE OF THE SESSION

95. After an exchange of courtesies, the CHAIRMAN declared the session closed.

The meeting rose at noon.

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the Elimination
of all Forms of
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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-fifth session

SUMMARY RECORD OF THE 1333rd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 2 August 1999, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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GE.99-43530 (E)

The meeting was called to order at 10.10 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the fifty-fifth session of the Committee on the Elimination of Racial Discrimination. He welcomed Mr. Gaham, Acting Chie of the Support Services Branch, Office of the United Nations High Commissione for Human Rights, and invited him to make a statement.

STATEMENT BY THE ACTING CHIEF OF THE SUPPORT SERVICES BRANCH, OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

2. Mr. GAHAM (Acting Chief, Support Services Branch) wished the Committee every success during its current session, speaking also on behalf of the High Commissioner and Deputy High Commissioner for Human Rights, who were unfortunately unable to attend the current meeting. Since the Committee's previous session, Georgia and Indonesia had acceded to the International Convention on the Elimination of All Forms of Racial Discrimination. The number of State ratifications, currently 155, brought the latter instrument u to third place among the six fundamental human rights instruments, after the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. The Secretary-General and the High Commissioner for Human Rights had constantly stressed their commitment to strive for universal ratification; to that end, the Office of the High Commissioner had intensified its cooperation with other United Nations partners, especially the United Nations Development Programme (UNDP), inter alia by planning six regional and national workshops to promote universal ratification within the next two years. The growing number of ratifications entailed a heavier workload for the treaty bodies and would cal for additional resources; the innovative measures some treaty bodies had already taken and their recognition of the need for continuous reform to meet present and future challenges were most welcome.

3. The Committee had in many respects been in the forefront in developing working methods so as to fulfil its responsibilities efficiently, especially by organizing its sessional work in such a way as to leave virtually no backlog and enable all reports to be considered normally within a year. The Committee had also recognized the need to look beyond State parties' periodic reporting obligations, notable examples being its prevention efforts including early warning and urgent measures and innovative action such as the statement issued during the Committee's previous session on the Kurdish people's identity and fundamental rights. A further illustration of the Committee's positive approach was the input of many of its members to the sessional open-ended working group to review and formulate proposals for the World Conference against Racism, Racial Discrimination, Xenophobia and Relate Intolerance - a matter which the High Commissioner would like to address wit the Committee later in its current session.

4. There had also been progress elsewhere. At the request of the treaty bodies, the Office of the High Commissioner had prepared a Plan of Action to strengthen implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights and the International Convention on the Eliminati

of All Forms of Racial Discrimination. A draft had been considered by the treaty bodies concerned and discussed in depth at the previous meeting of persons chairing human rights treaty bodies, and the plan should be operational very soon. In that regard, he expressed his personal appreciation of the valuable contributions made by several members of the Committee.

5. Other ideas and suggestions put forward at the meeting of chairpersons included a proposal to prepare a handbook for States parties to present the core elements of treaty body "jurisprudence" in the broadest sense of the term, and the proposed establishment of an ad hoc joint working group, consisting of designated members of the treaty bodies concerned, with a view to drafting common reporting guidelines with regard to some of the human rights instruments' common provisions. The Committee might wish to comment on such ideas.

6. At a recent meeting in Geneva, the workshop on the integration of a gender perspective into the human rights system, convened jointly by the Office of the High Commissioner for Human Rights, the United Nations Division for the Advancement of Women and the United Nations Development Fund for Women, had inter alia commended the practice of some treaty bodies, the Committee against Torture for example, in designating a member to serve as a focal point for gender issues - a practice which the Committee might wish to adopt.

7. Pursuant to the General Assembly's recent decision, the Committee's summer session had been extended by one week on a trial basis. The Committee could rest assured of the continuous support of the High Commissioner and himself for the Committee's valuable work and best wishes for success in dealing with its additional workload, including its tasks relating to the forthcoming World Conference. In all such efforts the Committee's role was decisive.

8. The CHAIRMAN thanked the Acting Chief of the Support Services Branch for his statement.

9. Mr. SHERIFIS said that he appreciated the presence of a representative of the High Commissioner. He was pleased to note that the number of States parties to the Convention had increased, and that the High Commissioner would be able to meet the Committee during its current session. It was important that such a meeting should take place at least once during each session so as to facilitate a general exchange of views, inter alia on issues pertaining to her office, including her views on the experience acquired since she had assumed it. It would also be helpful for the members of the Committee to have a contact list of senior officials in the Office of the High Commissioner.

10. Mr. RECHETOV said that the statement made by the Acting Chief of the Support Services Branch touched on a number of matters of great concern to the Committee. He endorsed the previous speaker's wish that the High Commissioner for Human Rights should meet the Committee during the current session, not only for general comments but for a detailed exchange of information and

views. He greatly appreciated her activity, including her invaluable visit to the Russian Federation and her unbiased approach to the human rights situation in Kosovo.

11. Mr. FERRERO COSTA endorsed the previous speakers' welcoming words to the Acting Chief of the Support Services Branch and their wish that the High Commissioner should meet the Committee at its current session. Such a meeting might perhaps feature as a regular item on the agenda of each session. It would be useful for the Committee to be informed in good time when the meeting would take place so that the discussion could be as fruitful as possible.

12. The CHAIRMAN said that all members of the Committee doubtless shared the views expressed by the three previous speakers, although meetings with the High Commissioner need not always be held on a formal basis; a recent meeting of persons chairing human rights treaty bodies had benefited from informal, unrecorded discussions with the High Commissioner.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CERD/C/366)

13. The CHAIRMAN suggested that the Committee should adopt the provisional agenda contained in document CERD/C/366, while giving the Bureau the discretion to adjust the timetable of work as necessary.

14. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2)

15. Mr. GARVALOV, referring to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, said that he hoped that the Committee would discuss the conclusions of the open-ended working group of the Commission on Human Rights which had been set up to discuss the World Conference against Racism. A three-member contact group from the Committee had attended the working group's meeting, and its report (CERD/C/55/Misc.5) was before the Committee.

16. In reply to a question by Mr. SHERIFIS, the CHAIRMAN said that, in the annotations to the agenda (CERD/C/366), the general debate scheduled for Friday, 6 August and Monday, 9 August was listed under the agenda item "Organizational and other matters".

17. Mr. WOLFRUM said that he was Country Rapporteur for Azerbaijan, whose report (CERD/C/350/Add.1) was due for consideration on Wednesday, 18 August and Thursday, 19 August. He asked whether it would be possible to reschedule consideration of Azerbaijan's report, as he had just learned that he would have to leave Geneva at the end of the second week of the session.

18. He had received a letter from the Australian Embassy in his country relating to the Committee's debate on Australia at its previous session. He hoped that the Committee would find time to discuss the letter during the current session.

19. The CHAIRMAN said that consideration of Azerbaijan's report could only be rescheduled if the State party were able to attend on the new date. The alternatives would be to ask another member to act as country rapporteur, or to postpone consideration of the report until a later session. Every member of the Committee had received the same letter from the Government of Australia, and the Bureau would certainly try to find a time when the issue could be discussed thoroughly.

20. Mr. van BOVEN recalled that the Committee had asked the Sub-Commission on the Promotion and Protection of Human Rights (formerly the Sub-Commission on Prevention of Discrimination and Protection of Minorities) to prepare a study on the rights of non-citizens of a State, as well as a study on affirmative action. The rapporteur of the Sub-Commission, Mr. Weissbrodt, had now completed his working paper (E/CN.4/Sub.2/1999/7), and it seemed only right that the Committee should consider the working paper and give its views. If members wished, he would prepare a few comments about the paper and submit them to the Committee.

21. He hoped that the Committee would find time to consider the proposed amendments to its reporting guidelines (see document CERD/C/55/Misc.3) and the proposed general recommendation on gender-related dimensions of racial discrimination (CERD/C/55/Misc.12), particularly since the proposals submitted at the previous session had not been discussed owing to lack of time.

22. The CHAIRMAN thanked Mr. van Boven for offering to prepare comments on the Sub-Commission's working paper on the rights of non-citizens. He invited Mr. van Boven to submit any specific proposal he might have concerning the amendments to the general guidelines and the draft general recommendation on gender issues.

23. Mr. SHAHI said that the Committee must devote adequate time to the preparations for the World Conference against Racism. There had not been enough time to discuss the issue in detail at recent sessions. The Committee was expected to provide considerable input into the World Conference, which was closely connected with its own mandate.

24. The CHAIRMAN said that the Committee's contribution to the preparations for the World Conference, including its studies and reports and the work of the three-member contact group, had been greatly appreciated by the other bodies involved.

25. Mr. RECHETOV said that, at the request of a number of international organizations, he had prepared a draft convention on the right to self-determination of peoples, which had been the subject of preliminary discussions at conferences in Moscow and Prague. He felt that the subject was of interest to the Committee, and he would be prepared to speak on it briefly at an appropriate time.

26. The CHAIRMAN said that the Committee would doubtless be interested to hear about the draft convention although, in his personal opinion, it did not strictly fall within the Committee's mandate.

27. One member of the Committee, Mr. Nobel, would be unable to attend the current session for health reasons. He suggested that he should write to Mr. Nobel on behalf of the Committee to wish him a speedy recovery.

28. It was so decided.

29. The CHAIRMAN suggested that the meeting should be suspended to allow the Bureau to meet informally.

The meeting was suspended at 11 a.m. and resumed at 12.10 p.m.

30. The CHAIRMAN said that, at its informal meeting, the Bureau had approved the proposed programme of work contained in document CERD/C/55/Misc.1/Rev.3, except for two points. The report of Azerbaijan (CERD/C/350/Add.1) was due to be considered on 18 and 19 August, with Mr. Wolfrum as Country Rapporteur, and the report of the Dominican Republic (CERD/C/331/Add.1) on 23 and 24 August, with Mr. Ferrero Costa as Country Rapporteur, but both members would be obliged to leave Geneva before the reports were considered. Consideration of the reports could not be rescheduled without the agreement of the countries concerned, and thus far the secretariat had been unable to contact them. If consideration could not be rescheduled, the Committee could either postpone it to a later session, which he personally did not consider a good idea, or ask another member to take over as country rapporteur. He would keep the Committee informed of any developments.

31. Mr. RECHETOV said that it would look very bad if the Committee was unable to consider a State party report for its own administrative reasons, particularly since it had just been granted a longer session. He suggested that the country rapporteurs should brief another member to take their place or, failing that, should submit their comments in writing.

32. The CHAIRMAN said that, if Mr. Wolfrum and Mr. Ferrero Costa agreed, they should find another member to take their place as country rapporteur for the reports of Azerbaijan and the Dominican Republic, and provide them with all available information.

33. It was so decided.

The meeting rose at 12.20 p.m.